



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

January 8, 2009

MEMORANDUM FOR COMMITTEE MANAGEMENT SECRETARIAT GENERAL SERVICES ADMINISTRATION

SUBJECT: Committee Charter Consultation – *Inland Waterways Users Board*

The Department of Defense, pursuant to 33 CFR § 2251, and the Federal Advisory Committee Act of 1972, as amended, intends to renew the charter for the *Inland Waterways Users Board* (attached). The board will operate under the provisions of the Federal Advisory Committee Act of 1972, as amended and 41 CFR, Parts 102-3 through 102-3. 185.

Prior to filing the board's charter with the Library of Congress and the appropriate congressional committees the Department of Defense respectively requests that the Committee Management Secretariat review and approve the proposed charter (attached). The proposed charter has been reviewed and approved by the Office of the General Counsel for the Department of Defense.

If you should have any questions about this charter please contact my point of contact, Mr. Jim Freeman, at 703-601-6128.

A handwritten signature in black ink, which appears to read "James D. Freeman II", is positioned above the printed name.

James D. Freeman II
Deputy Committee Management Officer
for the Department of Defense

4 Attachments

1. 10 U.S.C § 1114
2. Public Law 99-662
3. Administrative Assistant to the Secretary of the Army Memo, December 23, 2008
4. Proposed Charter

ATTACHMENT 1

Office of the Law Revision Counsel, U.S. House of Representatives[Home](#) [Search](#) [Download](#) [Classification](#) [Codification](#) [About](#)

Go to 1st query term(s)

-CITE-

33 USC Sec. 2251

01/03/05

-EXPCITE-

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS

CHAPTER 36 - WATER RESOURCES DEVELOPMENT

SUBCHAPTER III - *INLAND WATERWAY* TRANSPORTATION SYSTEM

-HEAD-

Sec. 2251. *Inland Waterways Users Board*

-STATUTE-

(a) Establishment of *Users Board*

There is hereby established an *Inland Waterway Users Board* (hereinafter in this section referred to as the "*Users Board*") composed of the eleven members selected by the Secretary, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent various regions of the country and a spectrum of the primary *users* and shippers utilizing the *inland* and intracoastal *waterways* for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on *inland waterways*. The Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the *Users Board*.

(b) Duties

The *Users Board* shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and

rehabilitation priorities and spending levels on the commercial navigational features and components of the *inland waterways* and *inland* harbors of the United States for the following fiscal years. Any advice or recommendation made by the *Users Board* to the Secretary shall reflect the independent judgment of the *Users Board*. Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), the *Users Board* shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.

(c) Administration

The *Users Board* shall be subject to the Federal Advisory Committee Act, other than section 14, and, with the consent of the appropriate agency head, the *Users Board* may use the facilities and services of any Federal agency. Non-Federal members of the *Users Board* while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

-SOURCE-

(Pub. L. 99-662, title III, Sec. 302, Nov. 17, 1986, 100 Stat. 4111; Pub. L. 106-109, Sec. 8(a), Nov. 24, 1999, 113 Stat. 1495.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

-MISC1-

AMENDMENTS

1999 - Subsec. (b). Pub. L. 106-109, in last sentence,
substituted "Notwithstanding section 3003 of Public Law 104-66 (31
U.S.C. 1113 note; 109 Stat. 734), the" for "The".



[Home](#) [Search](#) [Download](#) [Classification](#) [Codification](#) [About](#)
Office of the Law Revision Counsel, U.S. House of Representatives

ATTACHMENT 2

An Act

To provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure.

=====

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Water Resources Development Act of 1986".

(b) Table of Contents.--

Title I--Cost Sharing

Title II--Harbor Development

Title III--Inland Waterway Transportation System

Title IV--Flood Control

Title V--Shoreline Protection

Title VI--Water Resources Conservation and Development

Title VII--Water Resources Studies

Title VIII--Project Modifications

Title IX--General Provisions

Title X--Project Deauthorizations

Title XI--Miscellaneous Programs and Projects

\$123,000,000, with a first Federal cost of \$123,000,000.

Lock and Dam 8 Replacement, Monongahela River, Pennsylvania

The project for navigation, Lock and Dam 8 Replacement, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated September 24, 1984, with such modifications (including acquisition of lands for fish and wildlife mitigation) as the Secretary determines are advisable, at a total cost of \$82,900,000, with a first Federal cost of \$82,900,000.

(b) Authorization of Construction Subject to Favorable Report.--The following project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

Winfield Locks and Dam, Kanawha River, West Virginia

Construction of improvements to, and an additional lock in the vicinity of, the Winfield Locks and Dam, Kanawha River, West Virginia, and acquisition of lands for fish and wildlife mitigation in such vicinity, at a total cost of \$153,000,000, with a first Federal cost of \$153,000,000.

SEC. 302. INLAND WATERWAYS USERS BOARD.

(a) Establishment of Users Board.--There is hereby established an Inland Waterway Users Board (hereinafter in this section referred to as the "Users Board") composed of the eleven members selected by the Secretary, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways. The Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the Users Board.

(b) Duties.--The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the

United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. The Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.

(c) Administration.--The Users Board shall be subject to the Federal Advisory Committee Act (83 Stat. 770; 5 U.S.C. App.), other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency. Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

TITLE IV--FLOOD CONTROL

SEC. 401. AUTHORIZATION OF PROJECTS.

(a) Authorization of Construction.--The following works of improvement for the control of destructive floodwaters are adopted and authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection:

Village Creek, Alabama

The project for flood control, Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers, dated December 23, 1982, at a total cost of \$31,600,000, with an estimated first Federal cost of \$23,600,000 and an estimated first non-Federal cost of \$8,000,000.

Threemile Creek, Alabama

The project for flood control, Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers, dated April 20, 1984, at a total cost of \$19,100,000, with an estimated first Federal cost of \$13,400,000 and an estimated first non-Federal cost of \$5,700,000.

Little Colorado River, Arizona

ATTACHMENT 3



DEPARTMENT OF THE ARMY
ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY
105 ARMY PENTAGON
WASHINGTON, DC 20310-0105

DEC 23 2008

MEMORANDUM FOR DIRECTOR, ADMINISTRATION AND MANAGEMENT,
OFFICE OF THE SECRETARY OF DEFENSE

SUBJECT: Inland Waterways Users Board Charter Renewal

Request renewal of the Inland Waterways Users Board (IWUB) Charter which expires on 20 March 2009. The IWUB is a Department of Defense Federal Advisory Committee under the purview of the Secretary of the Army.

The IWUB justification memorandum and proposed Charter are enclosed for your consideration and meet the criteria established in DoDI 5105.04, E3.4.6.2.1. Recommend approval to continue the committee.

My point of contact for this action is Marla-Jo Bonuccelli. She may be reached at 703-602-6268 or marla-jo.bonuccelli@hqda.army.mil.

Encls


JOYCE E. MORROW



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

NOV 20 2008

CECW-IP

MEMORANDUM FOR THE ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF
THE ARMY

SUBJECT: Charter Renewal for the Inland Waterways Users Board

1. Enclosed is the proposed charter renewal for the Inland Waterways Users Board in accordance with the requirements set forth in the Federal Advisory Committee Act of 1972. Reflecting the concept of "Users Pay, Users Say", the Water Resources Development Act of 1986 (Public Law 99-662) established the Inland Waterways Users Board (the Board) to give commercial users (carriers and shippers) a voice in the investment decision-making supported by their cost-sharing tax contributions. The principal responsibility of the Board is to recommend to the Secretary of the Army and the U.S. Congress the prioritization of new and replacement construction and major rehabilitation projects for the inland and intracoastal waterways system. This duty is critical today as the inland waterways are aging and considerable need exists. Navigation is a primary transportation mode and is vital to the movement of commodities necessary to keep the U.S. economy healthy.
2. The commercial users pay a tax on fuel consumed on the fuel-taxed inland and intracoastal waterways as defined in legislation. Revenues from the tax are deposited in the Inland Waterways Trust Fund and fund 50% of the cost of construction, replacement and rehabilitation of inland navigation projects each year as authorized. The amount of tax paid by commercial users is currently \$.20 per gallon of fuel. This annually generates approximately \$90 million in contributions to the Inland Waterways Trust Fund to support inland and intracoastal waterways infrastructure development and rehabilitation. The balance in the Trust Fund is now nearly depleted and hard investment decisions are being made for the limited resources. Also, possible new mechanisms to generate more revenues for the inland waterways investment needs are being explored. This committee is crucial to the deliberations.
3. Non-Federal members appointed to serve on the Inland Waterways Users Board serve as Special Government Employees (SGEs) of the Federal government and serve without compensation.
4. Request your concurrence to renew the charter of the Inland Waterways Users Board.

5. My Point of Contact for this action is Mr. Mark R. Pointon. He may be reached at 202-761-4258 or at e-mail address mark.pointon@usace.army.mil.

Encl

A handwritten signature in black ink, appearing to read 'St L Stockton', written in a cursive style.

STEVEN L. STOCKTON, P.E.
Director of Civil Works

CHARTER INLAND WATERWAYS USERS BOARD

A. Official Designation: The Committee shall be known as the Inland Waterways Users Board (hereafter referred to as the Board).

B. Objectives and Scope of Activities: The Board, under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and 33 U.S.C. § 2251, as amended, shall provide the Secretary of Defense, through the Secretary of the Army and the Assistant Secretary of the Army for Civil Works, independent advice and recommendations on matters relating to construction and rehabilitation priorities and spending levels on the commercial navigation features and components of the U.S. inland waterways and inland harbors as defined in Public Law 95-502 and amended by Public Law 99-662.

The Board shall annually file their recommendations with the Secretary of the Army and with the Congress. The Secretary of the Army or designee may act upon the advice of the Board.

C. Board Membership: Pursuant to 33 U.S.C. § 2251(a), the Board shall be composed of eleven (11) members selected by the Secretary of the Army and appointed by the Secretary of Defense. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland and intra-coastal waterways.

Board Members appointed by the Secretary of Defense, who are not full-time Federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. § 3109. Board members shall, with the exception of travel and per diem for official travel, serve without compensation.

Board Members shall serve two-year terms, with their appointments renewed on an annual basis. No member, unless otherwise authorized by the Secretary of the Army or designee, shall serve more than four consecutive years on the Board. Appointments vacated prior to the expiration of the term of said appointment shall be filled only for the remainder of the term.

The Secretary of the Army or designee shall select the Board's Chairman and Vice-Chairman (hereafter referred to as Chair and Vice Chair) from the total Board membership, and these individuals shall serve at the discretion of the Secretary of the Army or designee. The Vice Chair will act as Chair in the absence or incapacity of the Chair, or in the event of a vacancy in the position of the Chair.

The Secretary of the Army or designee shall choose, and the Secretaries of Agriculture, Transportation and Commerce may designate representatives to act as non-voting observers of the Board. In addition, the Secretary of the Army or designee through the Secretary of Defense may appoint consultants with special expertise to assist the Board on an ad hoc basis.

D. Board Meetings: The Board shall meet at the call of the Designated Federal Officer, in consultation with the Chair and the Assistant Secretary of the Army for Civil Works. Pursuant to 33 U.S.C. § 2251(b), the Board shall meet at least semi-annually.

The Designated Federal Officer shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer and/or Alternate Designated Federal Officer shall attend all Board and subcommittee meetings.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or work groups shall operate under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. § 552b, as amended), and other appropriate Federal regulations.

Subcommittees or work groups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees and work groups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any Federal officers or employees who are not Board members.

E. Duration and Termination of the Board: Pursuant to 33 U.S.C. § 2251, as amended, the need for this advisory function is on a continuing basis; however, it is subject to review every two years.

F. Agency Support: The Department of Defense, through the Department of the Army, shall provide support as deemed necessary for the performance of the Board's functions, and shall ensure compliance with the requirements of 5 U.S.C., Appendix, as amended.

G. Operating Costs: It is estimated that the annual operating costs for this Board, to include travel costs and contract support, are \$300,000.00. The estimated annual personnel costs to the Department of Defense are 1.75 full-time equivalents (FTEs).

I. Date Charter Filed:

ATTACHMENT 4

CHARTER INLAND WATERWAYS USERS BOARD

- A. Official Designation: The committee shall be known as the Inland Waterways Users Board (hereafter referred to as the Board).
- B. Objectives and Scope of Activities: The Board, under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and 33 U.S.C § 2251, as amended, shall provide the Secretary of Defense, through the Secretary of the Army and the Assistant Secretary of the Army for Civil Works, independent advice and recommendations on matters relating to construction and rehabilitation priorities and spending levels on the commercial navigational features and components of U.S. inland waterways and inland harbors as defined in Public Law 95-502 and amended by Public Law 99-662.

The Board shall annually file their recommendations with the Secretary of the Army and with the Congress. The Secretary of the Army or designee may act upon the advice of the Board.

- C. Board Membership: Pursuant to 33 U.S.C § 2251(a), the Board shall be composed of eleven members selected by the Secretary of the Army and appointed by the Secretary of Defense. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways.

Board members appointed by the Secretary of Defense, who are not full-time federal officers or employees, shall be appointed as experts and consultants under the authority of U.S.C. § 3109, and these individuals shall serve as Special Government Employees. Board members shall, with the exception of travel and per diem for official travel, serve without compensation.

Board members shall serve two-year terms, with their appointments renewed on an annual basis. No member, unless otherwise selected by the Secretary of the Army or designee and approved by the Secretary of Defense, shall serve more than four consecutive years on the Board. Appointments vacated prior to the expiration of the term of said appointment shall be filled only for the remainder of the term.

The Secretary of the Army shall select the Board's Chairman and Vice Chairman from the total membership, and these individuals shall serve at the discretion of the Secretary of the Army or designee. The Vice Chairman will act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

The Secretary of the Army shall choose, and the Secretaries of Agriculture, Transportation, and Commerce may designate, representatives to act as non-voting

observers of the Board. In addition, the Secretary of the Army or designee through the Secretary of Defense may appoint consultants with special expertise to assist the Board on an ad hoc basis.

- D. Board Meetings: The Board shall meet at the call of the Designated Federal Officer, in consultation with the Chairman and the Assistant Secretary of the Army for Civil Works. Pursuant to 33 U.S.C § 2251(b), the Board shall meet at least semi-annually.

The Designated Federal Officer shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer and/or Alternate Designated Federal Officer shall attend all Board and subcommittee meetings.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or workgroups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended), and other appropriate federal regulations.

Subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board members.

- E. Duration and Termination of the Board: Pursuant to 33 U.S.C. § 2251, the need for this advisory function is on a continuing basis; however, it is subject to renewal every two years.
- F. Agency Support: The Department of Defense, through the Department of the Army, shall provide support as deemed necessary for the performance of the Board's functions, and shall ensure compliance with the requirements of 5 U.S.C., Appendix, as amended.
- G. Operating Costs: It is estimated that the annual operating costs for this Board, to include travel costs and contract support, are \$300,000.00. The estimated annual personnel costs to the Department of Defense are 1.75 full-time equivalents.
- H. Recordkeeping: The records of the Board and its subcommittees shall be handled according to section 2, General Records Schedule 26 and appropriate DoD policies and procedures. These records shall be available for public inspection and copying subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).
- I. Date Charter Filed: